

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

MICHAEL PHILLIPS,

Plaintiff,

v.

AAA INSURANCE; et al.,

Defendant.

3:10-CV-0506-LRH-VPC

ORDER

Before the court is defendant ACA Insurance Company's ("ACA") notice of removal.  
Doc. #1.<sup>1</sup>

"[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States." 28 U.S.C. § 1441(a). After a party files a petition for removal, the court must determine whether federal jurisdiction exists, even if no objection is made to removal. *See Rains v. Criterion Systems, Inc.*, 80 F.3d 339, 342 (9th Cir. 1996).

The district courts of the United States have original jurisdiction of civil actions when the suit is between citizens of different states and the amount in controversy, exclusive of interest and costs, exceeds \$75,000. 28 U.S.C. § 1332(a). If a complaint does not specify the amount of

<sup>1</sup>Refers to the court's docket

1 damages, “the removing defendant bears the burden of establishing, by a preponderance of the  
2 evidence, that the amount in controversy exceeds \$[75],000.” *Sanchez v. Monumental Life Ins.*  
3 *Co.*, 102 F.3d 398, 404 (9th Cir. 1996). “The court may consider facts in the removal petition and  
4 may require parties to submit summary-judgment-type evidence relevant to the amount in  
5 controversy at the time of removal.” *Kroske v. U.S. Bank Corp.*, 432 F.3d 976, 980 (9th Cir. 2006)  
6 (internal quotation marks omitted).

7 After review of the complaint and defendants’ petition for removal, the court finds it  
8 requires more evidence to determine whether it has subject matter jurisdiction over this case. ACA  
9 claims that “upon information and belief the matter in controversy exceeds \$75,000, exclusive of  
10 interests and costs” because plaintiff has made a demand for settlement of his claims for \$60,000  
11 and now also requests punitive damages. Doc. #1. However, this statement alone is insufficient to  
12 establish jurisdiction. Jurisdiction will only exist if defendants can present “summary-judgment-  
13 type evidence” to establish by a preponderance of the evidence that this case meets § 1332(a)’s  
14 amount in controversy requirement. ACA is therefore granted leave to present evidence in order to  
15 establish that this action involves the requisite amount in controversy.

16  
17 IT IS THEREFORE ORDERED that defendant shall have twenty (20) days from the filing  
18 of this order to establish the minimum amount in controversy for the exercise of diversity  
19 jurisdiction.

20 IT IS SO ORDERED.

21 DATED this 9th day of September, 2010.



22  
23  
24 LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE